

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ANTHONY LAMONT MOORE,

Plaintiff,

v.

PEGGY ERICKSON, et al.,

Defendants.

CASE No. 2:20-cv-219

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Vermaat’s Report and Recommendation in this matter (ECF No. 67) and Plaintiff’s Objection to it. (ECF No. 70). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

[t]he district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s Objection. After its review, the Court finds

that Magistrate Judge Vermaat's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends the Court grant Defendants' motion to dismiss and impose costs on Plaintiff based on Plaintiff's failure to prosecute this case and appear for his depositions. (ECF No. 67). In his objection, Plaintiff insists he has tried to participate in the case, but he was stymied when he was unable to connect to his videoconference depositions. Plaintiff's objections are unconvincing. Even assuming Plaintiff was unable to connect to his first video conference, as described, the events thereafter, as described by Plaintiff, only confirm that he failed to diligently prosecute this action. The Court agrees that this matter must be dismissed, for the very reasons articulated by the Magistrate Judge.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 67) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (ECF No. 59) is **GRANTED**.

IT IS FURTHER ORDERED that the defense be awarded \$461.89 in costs, payable by Plaintiff to Defendants, jointly and severally.

This case is **DISMISSED**. A separate Judgment shall issue.

Dated: November 23, 2022

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE